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9 Attorney for Plaintiffs

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF MONTANA**
12 **GREAT FALLS DIVISION**

13 LYNN SULLIVAN,) CV-2019-80-GF-BMM
14)
15 Plaintiff,)
16 vs.)
17) **SECOND AMENDED COMPLAINT**
18 UNITED STATES OF AMERICA; VISTA)
19 STAFFING SOLUTIONS, INC.; STEPHEN)
20 SCHWARTZ, and NAVTEJPAL SINGH)
21 KAHLON,)
22 Defendants.)
23)

24 Plaintiff alleges as follows:

- 25 1. Plaintiff Lynn Sullivan is an enrolled tribal member of the Blackfeet Tribe, a
26 citizen of the State of Montana, and a resident of Blaine County, Montana.

- 1 2. This Court has jurisdiction over this cause of action pursuant to the Federal
2 Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from
3 conduct of federal government agents and Plaintiff has exhausted
4 administrative remedies.
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- 6 3. This Court has exclusive jurisdiction over tort claims brought against the
7 United States pursuant to 28 U.S.C. § 1346(b).
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- 9 4. Defendant Vista Staffing Solutions, Inc. is a Delaware corporation with its
10 principal place of business in Plantation, Florida that has a contract with the
11 United States to provide health care providers on the Fort Belknap Indian
12 Reservation.
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- 14 5. Based on information and belief, Defendant Stephen Schwartz is a is
15 contracted to provide health care services on the Fort Belknap Indian
16 Reservation at the Indian Health Service.
17
- 18 6. Based on information and belief, Defendant Navtejpal Singh Kahlon is a
19 California resident who is contracted to provide health care services on the
20 Fort Belknap Indian Reservation at the Indian Health Service.
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- 22 7. Plaintiff filed Federal Tort Claim Act claims on May 14, 2019, and the
23 Department of Health and Human Services received the claims on May 15,
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1 2019. The government had not acted on the claims when Plaintiff fields
2 suit, therefore Plaintiff's claims are ripe for adjudication.

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4 8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(e) and 1402(b).

5 9. On May 25, 2017, Lynn Sullivan presented to the Ft. Belknap IHS clinic
6 complaining of pain in her leg. IHS health care providers failed to diagnose
7 the cause of her pain.
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10 10. Lynn Sullivan returned to the Ft. Belknap IHS clinic on numerous occasions
11 over the following weeks complaining of continued pain in her leg, pain in
12 her back, muscle weakness and spasms, and bladder and bowel control
13 issues. IHS health care providers failed to diagnose the cause of her pain or
14 symptoms.
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17 11. Eventually, IHS health care providers referred Lynn Sullivan to non-IHS
18 health care providers in Great Falls, Montana, who performed emergency
19 surgeries on Lynn Sullivan to save her life.
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22 12. Lynn Sullivan eventually was referred to health care providers in Denver,
23 Colorado to perform follow-up surgeries.
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25 13. Lynn Sullivan continues to have pain and complications related to the
26 failures of health care providers at the Ft. Belknap Health Center to timely
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1 diagnose her condition or make a timely referral to outside health care
2 providers.

- 3
4 14. Health care providers at the Ft. Belknap Health Center violated the
5 standard of care beginning on May 25, 2017 when they failed diagnose
6 Lynn Sullivan's medical condition. This failure caused Lynn Sullivan's
7 condition to deteriorate.
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9 15. Health care providers at the Ft. Belknap Health Center were negligent and
10 violated the standard of care in failing to properly assess and properly treat
11 Lynn Sullivan's condition upon her presentations to the IHS beginning on
12 May 25, 2017. The failure to assess and treat Lynn Sullivan in a timely
13 manner caused her condition to deteriorate.
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15 16. Health care providers at the Ft. Belknap Health Center were negligent and
16 violated the standard of care in failing to properly assess and refer Lynn
17 Sullivan to other medical care providers upon her presentations to the IHS
18 beginning on May 25, 2017. The failure to assess and refer Lynn Sullivan to
19 other medical care providers in a timely manner caused her condition to
20 deteriorate.
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22 17. As a direct and proximate result of each of the acts and omissions of the
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IHS and health care providers at the Ft. Belknap Health Center alleged in this Complaint, Lynn Sullivan suffered severe and painful injuries and has required numerous follow-up procedures.

18. Plaintiff alleges that Montana's \$250,00.00 cap on non-economic damages contained in MCA §25-9-411 is unconstitutional because it violates the Montana Constitution's guarantees of (1) the right to full legal redress (Art.II, Sec. 16); (2) her right to jury trial (Art. II, Sec. 26); (3) her right to equal protection of the laws (Art II, Sec. 4); and (4) the separation of powers (Art III, Sec. 1).

WHEREFORE, Plaintiff demands judgment against the Defendants as follows:

1. For judgment in such amounts as shall be proven at the time of trial.
2. For an award of attorney's fees and costs as provided by any applicable provision of law.
3. For such other and further relief as the Court deems just and equitable.

DATED this 26th day of October, 2020.

/s/ Timothy M. Bechtold
BECHTOLD LAW FIRM, PLLC